

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 ELIJAH L. PALMER, *et al.*,

Case No. 2:20-cv-00330-GMN-NJK

4 Plaintiffs

ORDER

5 v.

6 LAS VEGAS METROPOLITAN POLICE
7 DEPARTMENT, *et al.*,

8 Defendants

9 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983
10 by Plaintiff Jose Garcia incarcerated at the Clark County Detention Center. On February
11 13, 2020, this Court issued an order directing Plaintiff Garcia to file an amended complaint
12 and a fully complete application to proceed *in forma pauperis* or pay the full filing fee of
13 \$400 within thirty days from the date of that order. (ECF No. 1 at 10). The thirty-day
14 period has now expired, and Plaintiff Garcia has not filed an amended complaint or an
15 application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded
16 to the Court’s order.

17 District courts have the inherent power to control their dockets and “[i]n the
18 exercise of that power, they may impose sanctions including, where appropriate . . .
19 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
20 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
21 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
22 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
23 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
24 1992) (affirming dismissal for failure to comply with an order requiring amendment of
25 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
26 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
27 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
28 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,

1 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
2 local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the court must consider several factors:
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
18 the court's order will result in dismissal satisfies the "consideration of alternatives"
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
20 F.2d at 1424.

21 The Court's order requiring Plaintiff Garcia to file an amended complaint and an
22 application to proceed *in forma pauperis* or pay the full filing fee within thirty days
23 expressly stated: "It is further ordered that if any plaintiff fails to file an amended complaint
24 within 30 days of this order, that plaintiff's action will be dismissed without prejudice to
25 that plaintiff later filing a new action with a new complaint." (ECF No. 4 at 10).
26 Additionally, the Court's order also expressly stated: "It is further ordered that, if any
27 plaintiff fails to either pay the complete filing fee or file a complete application to proceed
28 *in forma pauperis*, including the required financial attachments, within 30 days of the date

1 of this order, the action by that plaintiff will be dismissed without prejudice to that plaintiff
2 later filing an action in a new case with a new complaint and either paying the full filing
3 fee or filing a complete application to proceed in forma pauperis with the required financial
4 documents." (*Id.* at 10). Thus, Plaintiff Garcia had adequate warning that dismissal would
5 result from his noncompliance with the Court's order to file an amended complaint and an
6 application to proceed *in forma pauperis* or pay the full filing fee within thirty days.

7 IT IS THEREFORE ORDERD that this action is dismissed without prejudice based
8 on Plaintiff Garcia's failure to file an amended complaint or another application to proceed
9 *in forma pauperis* or pay the full filing fee in compliance with this Court's order dated
10 February 13, 2020.

11 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter
12 judgment accordingly.

13 DATED: March 25, 2020

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16 GLORIA M. NAVARRO
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